

Chapter 3 – ENTITY OWNER AND NONCLIENT RESIDENT BACKGROUND CHECK PROCESS

3.1.0

ENTITY OWNERS AND NONCLIENT RESIDENTS

Just as entities are required to conduct caregiver background checks on employees, the Bureau of Quality Assurance (BQA) is required to conduct caregiver background checks on all entity owners, some board members and nonclient residents of BQA regulated entities.

s.50.065(1)(ag)b

The definition of a caregiver includes a person who is one of the following:

- the owner (license holder/legal representative) of an entity, whether or not they have regular, direct contact with clients; or
- a board member or corporate officer who has regular, direct contact with the clients served.

s.50.065(1)(cn)

The law also covers anyone who is a nonclient resident age 10 or older who has regular, direct contact with clients.

3.1.1

Owners/License Holders

The requirement for BQA performing background checks applies to the owner/license holder of an entity whether or not they have regular, direct contact with clients.

3.1.1.1

Nongovernmental Entities

If the owner/license holder is a corporation or other type of business that does not have a single owner (e.g., Domestic Corporation, Non-stock Corporation, partnership, Limited Liability Company, etc.), then the organization **must** designate one principal officer to legally represent the organization for the purposes of fulfilling the background check requirements.

The legal representative must submit a **Background Information Disclosure** (BID) form and a **BID Appendix** form (see [Appendix I](#)) whether or not they have regular, direct contact with clients.

Example: Doris M. is the Chief Executive Officer (CEO) of a corporation which owns a nursing home. She has been designated as the legal representative of the organization for the purpose of caregiver background check requirements.

Although Doris lives in Minneapolis and rarely visits the nursing home facility in Milwaukee, she is considered the entity “owner” and is required to submit the BID, Appendix and fee to BQA.

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3.1.1.2 *Governmental and Tribal Entities*

An individual, e.g., the entity administrator, designated by the governmental agency or tribe who operates the entity, whether or not the person has regular, direct contact with clients, is required to submit the BID and BID Appendix.

3.1.2 **Principal Officers, Corporation or Board Members**

Principal officers, corporation or board members of the business organization who have regular, direct contact with clients are required to submit the BID and BID Appendix.

3.1.3 **Nonclient Residents**

A nonclient resident is defined as a person 10 years of age or older who is not a client of the entity but who resides at the entity and is expected to have regular, direct contact with entity clients. Background checks must be completed on any nonclient resident who has regular, direct contact with entity clients.

s.50.065(2)(bd)

BQA is not required to complete full caregiver background checks on nonclient residents under age 18 if their **completed Background Information Disclosure** (BID) form does not indicate any convictions of a crime or findings by a government agency that require a Rehabilitation Review or license limitations. However, BQA may choose to complete a full caregiver background check on a minor. A parent or guardian may sign the BID form for a minor.

Example: Eddie B. is the 13-year-old son of Jackie B., a CBRF owner/operator. Eddie resides in a private residence area of the CBRF facility and has daily contact with the CBRF clients; therefore, he is a nonclient resident and must complete a Background Information Disclosure (BID) form.

His BID does not indicate any offenses that prohibit him from residing at the facility so BQA is not required to submit a criminal history record request to the Department of Justice.

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3.2.0 BACKGROUND CHECK PROCESS**s.50.065(3)(a)**

The Bureau of Quality Assurance (BQA) must complete caregiver background checks on all owners/license holders, principal officers, corporation or board members and nonclient residents at least every four years.

3.2.1 Background Information Disclosure (HFS-64) and Appendix (HFS-69)**s.50.065(6)(a)**

When contacted to do so by the Bureau of Quality Assurance, entities must have each applicable person complete a:

- BID form and
- BID Appendix form.

s.50.065(6)(b)

These completed forms must be submitted to BQA with a processing fee for each person.

3.2.1.1 *Military Discharge Papers***HFS 12.08**

The entity must obtain a copy of the military discharge papers (DD-214) from a person who was discharged from the military within the three years preceding the search and submit the DD-214 with the BID and BID Appendix forms to BQA.

3.2.1.2 *Out-of-State Records Search***s.50.065(2)(bm)**

A person who resided in a state other than Wisconsin or other U.S. jurisdiction (e.g., tribal courts, Puerto Rico, US Virgin Islands and Northern Mariana Islands, including Guam) at any time during the three years preceding the date of the search must submit a copy of their criminal history information from that state to BQA.

3.2.1.3 *BID Form Retention*

BQA will retain the person's completed BID and Appendix forms with the completed caregiver background check (see [3.2.4](#) and [3.2.5](#)).

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3.2.2 Wisconsin Criminal History Record Request

BQA will do a criminal history search by submitting a request via the internet to the Department of Justice (DOJ) on all required persons.

3.2.3 Response to Wisconsin Criminal History Record Request

BQA will receive two responses to the caregiver background check request:

s.50.065(2)(am)

1. A "no record found" response **or** a criminal record transcript (Wisconsin Identification Data) from the DOJ Crime Information Bureau; **and**
2. A Response to Caregiver Background Check letter (HFS-65) from DHFS containing DHFS and DRL information about the person

3.2.3.1 Wisconsin Identification Data

s.50.065(2)(am)1

The Wisconsin Identification Data is a report of arrests and/or convictions within the state of Wisconsin from records maintained by the DOJ. BQA must examine this information for arrest and convictions and make licensing and residency decisions based on the results (see Chapter 4). A person who has a report of arrests or convictions may be required to submit additional documentation to BQA.

3.2.3.2 Response to Caregiver Background Check, HFS-65

s.50.065(2)(am)2-5

The Response to Caregiver Background Check is a DHFS letter stating whether the individual has any findings of caregiver misconduct by various state agencies, including information maintained by the Department of Regulation and Licensing regarding the status of the person's credentials, as applicable.

BQA must examine this information for findings of misconduct by a governmental agency or licensing limitations and make licensing and residency decisions based on the results (see [Chapter 4](#)).

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3.2.4 Complete Caregiver Background Check

At a minimum, a **complete caregiver background check** completed by BQA consists of the following four documents:

1. A completed HFS-64 *Background Information Disclosure* (BID) form;
2. A completed HFS-69 Appendix form;
3. A response from the Department of Justice (DOJ), either
 - A “no record found” response **or**
 - A criminal record transcript;
- And,**
4. A Response to Caregiver Background Check letter that reports the person’s status, including administrative finding or licensing restrictions.

Other documentation must be provided to BQA when information is needed to complete the background check, such as other state’s conviction records, other U.S. jurisdiction conviction records, military discharge papers, arrest and conviction disposition information from local clerks of courts or tribal courts. (See [3.2.1.1](#), [3.2.1.2](#) and [Chapter 4](#))

3.2.5 Background Check Record Retention

BQA will maintain the documents listed in 3.2.4 for each owner, board member and nonclient resident as defined in [3.1.0](#).

3.3.0 LICENSURE AND RESIDENCY LIMITATIONS

s.50.065(4m(a))

A finding by a governmental agency or a conviction record, depending on the nature of the conviction (see [Chapter 4](#)) may result in:

- Denial, revocation or suspension of a license, certificate of approval or registration of a person to operate an entity; or
- Denial of residency of a nonclient resident.

The offenses listed on the Offenses List ([Appendix III](#)) will prohibit licensure, certification, or registration of a person to operate an entity or will prohibit residence of a nonclient resident at the entity, unless approved through the Rehabilitation Review process (see [Chapter 5](#)).

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3.4.0**SELF REPORTING REQUIREMENTS****HFS 12.07(2)**

Entities must notify BQA no later than the next business day when an owner/license holder, administrator, board member or nonclient resident has been convicted of any crime or has been or is being investigated by any governmental agency for any act or offense.

Entities must also notify BQA no later than the next business day if:

- there is a change in ownership, administration or board membership;
- a new nonclient resident moves in to the facility; or
- an existing nonclient resident turns 10 years of age or turns 18 years of age.

HFS 12.07(3)

A completed BID and BID Appendix for the person must be submitted to BQA within 10 business days of the change.